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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR part 457

Docket No. FCIC-14-0004

RIN 0563-AC44

Common Crop Insurance Regulations; Macadamia Tree Crop Insurance Provisions

Correcting Amendment

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains necessary amendments for addressing potential ambiguities in the final regulation for Macadamia Tree Crop Insurance Provisions, which was published on April 16, 2015 (80 FR 20407-20413).

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141-6205, telephone (816) 926-7730.

SUPPLEMENTARY INFORMATION:

Background

The final regulation subject to this amendment revised the Common Crop Insurance

Regulations, Macadamia Tree Crop Insurance Provisions. The final regulation was published April 16, 2015 (80 FR 20407-20413).

#### Need for Amendment

As published, language in the final regulation for Macadamia Tree Crop Insurance Provisions may require clarification to ensure proper application of the policy provisions. Sections 11(b)(3)(ii)(A) and (B) of the Macadamia Tree Crop Insurance Provisions may lack information or explanation needed to properly calculate an indemnity. Section 11(b)(3)(ii)(A) has been clarified to note that the result in this provision must also be multiplied by 100 to clearly represent the percentage of destroyed trees. Section 11(b)(3)(ii)(B) states the loss adjuster must take the number of damaged trees and divide by the total number of trees to calculate the percent of damage. However, the loss adjuster must also determine the percent of damage for each damaged tree within the overall loss calculation formula, when at least some damage (rather than solely complete destruction) is at issue. As a result, a description of specific additional steps is necessary under section 11(b)(3)(ii)(B) to clarify this issue.

In addition, section 11(c)(1) of the Macadamia Tree Crop Insurance Provisions was revised to change the provision from “ . . . over 80 percent actual damage due to an insured cause of loss will be considered to be 100 percent damaged” to “ . . . over 80 percent of the actual trees damaged or destroyed due to an insured cause of loss will be considered to be 100 percent damaged . . . ” This change may have appeared to require the loss adjuster to determine whether the orchard was damaged more than 80 percent solely by counting the number of trees damaged or destroyed, without calculating the actual damage to individual trees. That application was not FCIC’s intent. It is FCIC’s intent that actual damage to each individual tree, in addition to the total number and percentage of actual damaged trees, are both used among other factors (such as destroyed trees when applicable) to determine whether the orchard

is damaged more than 80 percent.

**List of Subjects in 7 CFR part 457**

Crop insurance, Macadamia tree, Reporting and recordkeeping requirements.

Amendment of Publication

Accordingly, 7 CFR part 457 is amended by making the following correcting amendments:

**PART 457- COMMON CROP INSURANCE REGULATIONS**

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. §§ 1506(1) and 1506(o).

2. In § 457.130, under the heading 11. Settlement of Claim, revise paragraphs

(b)(3)(ii)(A) and (B) paragraph (c) to read as follows:

**§ 457.130 Macadamia tree crop insurance provisions.**

\* \* \* \* \*

11. Settlement of Claim

\* \* \* \* \*

(b) \* \* \*

(3) \* \* \*

(ii) \* \* \*

(A) For destroyed trees, divide the number of trees destroyed by the total number of trees and multiply by 100 to calculate the percent of loss;

(B) For damaged trees:

(1) Divide the number of trees damaged by the total number of trees (both damaged and undamaged) to calculate the amount of damage;

(2) Divide the number of damaged scaffold limbs by the total number of scaffold limbs on each damaged tree to calculate the amount of damage for each damaged tree;

(3) Total the results in (b)(3)(ii)(B)(2);

(4) Divide the result of (b)(3)(ii)(B)(3) by the number of damaged trees;

(5) Multiply the result of (b)(3)(ii)(B)(1) by the result of (b)(3)(ii)(B)(4), then multiply that result by 100 to calculate the percent of loss; and

\* \* \* \* \*

(c) \* \* \*

(1) Any orchard with damage, destruction, or combined damage and destruction, that results in a total percent of loss greater than 80 percent due to an insured cause of loss will be considered to be 100 percent damaged and/or destroyed; and

\* \* \* \* \*

Signed in Washington, D.C., on July 31, 2015.

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